IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.317 OF 2004.

WITH

CRIMINAL APPLICATION NO.3238 OF 2004

Santoshkumar Leelaram Batra : Appellant.

versus.

The State of Maharashtra : Respondent.

Mr.Amin Solkar for the appellant.

Mr.A.M.Shringarpure, APP, for the State.

CORAM : D.G.DESHPANDE,J.

DATED : 13th August 2004.

P.C.

1. This appeal was admitted and the bail application was kept pending. Advocate for the accused/appellant, on that date itself i.e. on the date of admission, has stated that after getting instructions he would make the submission

regarding quantum of sentence. Accordingly he has taken necessary instructions. Therefore, by consent of the learned APP, the appeal is taken up for final hearing.

2. Mr.Solkar, appearing for the appellant, contended that the offences for which the accused is convicted are under Sections 399 and 402 of the Indian Penal Code and under Section 5 read with 27 of the Arms Act. This accused is convicted to suffer R.I. for seven years maximum on all the three counts. So far as the Arms Act is concerned, according to him, no revolver or the weapon coming under the Arms Act was found with this accused/appellant. In fact, even according to the prosecution, no weapon was found with this particular accused. All these accused at the relevant date was travelling with maruti car which was intercepted on suspicion. From accused Raju a revolver was recovered; two swords were found in the backside of the car and from this accused some cash of Rs.20/- and wrist watch were recovered and seized. There was nothing to show that the accused/appellant was having knowledge that accused Raju had a revolver with him.

3. Looking to the fact that no weapon was recovered from this accused and, that no antecedent was brought on record, the submissions of Mr.Solkar about reduction of sentence are required to be accepted. Hence, the appeal is partly allowed. The conviction of the accused is maintained under all the three sections. However, his sentence is reduced to the period already undergone. He shall be released forthwith if not required in any other case. Appeal is disposed of accordingly. Bail application does not survive. It is disposed of.

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